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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

23 Cr. 16 (JHR)

5 CHARLES McGONIGAL, SERGEY
6 SHESTAKOV,

7 Defendants.

Conference

8 New York, N.Y.
9 February 9, 2023
11:05 a.m.

10 Before:

11 HON. JENNIFER H. REARDEN,

12 District Judge

13 APPEARANCES

14 DAMIAN WILLIAMS

15 United States Attorney for the
16 Southern District of New York

17 BY: HAGAN C. SCOTTEN, ESQ.

18 REBECCA T. DELL, ESQ.

DEREK WIKSTROM, ESQ.

Assistant United States Attorneys

19 BRACEWELL LLP

Attorneys for Defendant Charles McGonigal

20 BY: SETH D. DuCHARME, ESQ.

21 MEAGAN MALONEY, ESQ.

22 GLAVIN PLLC

Attorneys for Defendant Sergey Shestakov

23 BY: RITA M. GLAVIN, ESQ.

24 KATHERINE E. PETRINO, ESQ.

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(Case called)

THE COURT: We are here for an initial conference. Is the United States ready to proceed?

MR. SCOTTEN: We are. Good morning, your Honor. Hagan Scotten for the government. Also at counsel table are Assistant United States Attorneys Rebecca Dell and Derek Wikstrom.

THE COURT: Good morning.

MS. DELL: Good morning.

MR. WIKSTROM: Good morning.

THE COURT: Defense counsel, are you ready to proceed?

MR. DuCHARME: Yes, your Honor. For Mr. McGonigal, I'm Seth DuCharme.

MS. MALONEY: Good morning, your Honor. Meagan Maloney.

THE COURT: Good morning.

MS. GLAVIN: Good morning, your Honor. Rita Glavin along with my associate Katherine Petrino, here with our client Sergey Shestakov.

THE COURT: Good morning.

All right. I would take a report from the government now on the procedural history.

MR. SCOTTEN: Yes, your Honor.

So the procedural history is fairly short. On January 12, a sealed indictment against both defendants was

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1 returned. On January 21st, both defendants were arrested.
2 They appeared before Magistrate Judge Lehrburger on the 23rd.
3 They were granted bail and time was excluded. And then on --

4 THE COURT: Magistrate Judge Cave?

5 MR. SCOTTEN: I'm sure you're right if you're looking
6 at something, your Honor.

7 THE COURT: I think it was Magistrate Judge Cave, but
8 in any event, please go ahead.

9 MR. SCOTTEN: And then on January 27th, this Court
10 extended the exclusion of time under the Speedy Trial Act until
11 today.

12 A couple other procedural notes, your Honor. As the
13 Court is probably aware, McGonigal -- but not Shestakov -- is
14 also indicted separately in the District of Columbia. There
15 hasn't been an appearance before the district court in that
16 matter yet so I don't think it constrains the district court,
17 this Court, in terms of scheduling, but I just wanted the Court
18 to be aware.

19 Second, we expect to be submitting a protective order
20 to the Court soon governing the use of discovery in this case.
21 We've actually already agreed to the essential terms of that
22 order with McGonigal's counsel, and we began producing
23 discovery to McGonigal. Because Shestakov's new attorney is a
24 little more recent to the case, we haven't yet been able to
25 receive all of her views on the order, but hopefully we will

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1 soon and hopefully we'll be able to submit something on
2 consent.

3 And then lastly, as the Court probably saw, yesterday
4 afternoon we filed a request for a conference under Section 2
5 of the Classified Information Procedures Act. I think for now
6 what's material is, I've already told defense counsel we don't
7 think that whatever issues may or may not exist concerning
8 classified information are going to affect scheduling here. So
9 we think this Court should set a schedule as it would in any
10 other criminal case, but we will also hopefully take advantage
11 of the procedure just to sort of lay out for the Court in a way
12 we can't do in a public forum what our thinking is, why that
13 is, let the Court ask questions.

14 THE COURT: I'm aware of that request. Mr. Scotten,
15 do you anticipate that that proceeding will concern scheduling
16 or will it be substantive?

17 MR. SCOTTEN: I think -- I think ideally it will not
18 really concern either. In a sense we'll tell the Court what
19 we've done so far on these issues, what, if anything, there is
20 left to do, and sort of explain to the Court why we think
21 that's not going to otherwise affect scheduling. But the Court
22 may say, I think you're wrong, and have some questions to see
23 if we're right, and we'd be able to answer them then.

24 THE COURT: All right. While you're standing, I need
25 to ask if there are identifiable persons in this case who

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1 require notification under the Crime Victims' Rights Act.

2 MR. SCOTTEN: No, your Honor.

3 THE COURT: Would either defense counsel like to be
4 heard at this time or should we move into scheduling?

5 MR. DuCHARME: I think we'd both like to be heard,
6 your Honor, very briefly. I can just start, your Honor.

7 We have begun conversations with the government about
8 the pace of discovery. We've run into some technical issues in
9 reviewing that material, but we signed the protective order, as
10 Mr. Scotten mentioned, and we'll have I think a better sense
11 about our theories of the defense once we can review the
12 discovery materials. We've made some specific requests to the
13 government that I think will be relevant to our understanding
14 of what a schedule would look like and what our expectations
15 would be with respect to CIPA practice. Just looking at
16 similar cases, it's often noted in the public record there are
17 successive CIPA filings, and that in part is guided by the
18 defense theory of the case. So we anticipate a time that we
19 may come to you to seek an opportunity to explain what the
20 defense theories are so you can be best positioned, sort of
21 working with the government, on a realistic schedule.

22 I think other than that, Judge, everything is on
23 track. We expect continued conversations. We've been moving
24 forward in good faith with the government, and I think we're
25 headed in the right direction.

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1 THE COURT: All right. Mr. DuCharme, the technical
2 issues you mentioned, those are on your end or on the
3 government's side?

4 MR. DuCHARME: Well, we're working to sort those out.
5 They have made available to us large electronic files, and
6 we've been having some challenges, you know, getting those
7 files through our firewall or, for lack of a better term,
8 accessible to us, so it's really more of a technical problem.
9 I think we're going to be able to work through it quickly when
10 we can get our tech folks working together, but they've at
11 least offered evidence and we're trying to access it.

12 THE COURT: All right. Ms. Glavin, are you having
13 that issue also?

14 MS. GLAVIN: Your Honor, I don't have any discovery as
15 yet because we haven't agreed on the protective order.

16 THE COURT: All right. Perhaps this is premature, but
17 assuming the technical issues are resolved promptly,
18 Mr. Scotten, how quickly do you anticipate turning over all of
19 the discovery materials?

20 MR. SCOTTEN: So, your Honor, we think we -- assuming
21 we get the protective order signed and there are no technical
22 glitches, we think we can get substantially everything in our
23 possession over to the defense within the next 30 days. Now
24 there are, as always, a couple caveats I have to put on the
25 record.

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1 One, we recognize that obligations are continuing and
2 will continue to search our files. We may find some more
3 things that are not in the initial disclosures, but there's
4 nothing we are aware of that's going to hold that up right now.

5 Second, it's possible -- and Mr. DuCharme sort of
6 hinted at this -- that the defense may come with us with
7 questions or theories of the defense we hadn't anticipated and
8 argue something we hadn't disclosed may exist that may be
9 Rule 16. We may agree with them; we may not. We may disclose
10 it even though -- I'm not -- what, essentially, I'm saying is,
11 within 30 days -- and, frankly, a lot sooner if we get the
12 protective order signed, because Mr. DuCharme has most
13 everything and we can easily get it to Ms. Glavin -- within 30
14 days we can get over sort of the bulk of the case, what we have
15 now and we're aware that we need to disclose, while we continue
16 to search our files for other things that may need to apply.

17 THE COURT: And you'll do that on a rolling basis.

18 MR. SCOTTEN: That's correct.

19 MS. GLAVIN: If I may be heard briefly.

20 THE COURT: Yes.

21 MS. GLAVIN: Just to set the table here, your Honor,
22 in terms of discussions that myself and Mr. DuCharme have had
23 with the U.S. Attorney's Office, to give your Honor some
24 perspective on the questions that we have been asking the
25 government, we have asked the government about when their full

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1 Rule 16 discovery will be completed. And as the government
2 well knows, Rule 16 requires disclosure to the defense of
3 materials in their possession that are material to the
4 preparation of our defense. So it's not just the materials
5 that they intend to use in their case in chief but the
6 materials that we would need to defend the case.

7 Along those lines, I raised with the government -- and
8 Mr. DuCharme raised it as well -- that they have an obligation
9 to make inquiry and search of the files of the intelligence
10 community. We have asked the government, have you made that
11 inquiry, I've asked what agencies; the government has not
12 responded.

13 And to give your Honor a sense about how long the case
14 has been going on, while the indictment was unsealed on
15 January 21st, which was a Saturday -- and I want to get to that
16 in a moment -- the government's been investigating this case
17 for about a year and a half. The FBI, they spoke to
18 Mr. Shestakov November of 2021. Mr. Shestakov went in, had a
19 meeting with the government, and the FBI, and spoke to them
20 four, five months ago. Was represented by counsel. So they
21 have known for some period of time and had time to go to the
22 intelligence community and should have this buttoned up with
23 respect to classified information that they have to seek if it
24 is material to the preparation of our defense. Here are some
25 of the issues that we have raised and the government has not

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1 answered. And I expect that should your Honor grant the
2 government's request for an *ex parte* conference under CIPA
3 Section 2, we are going to ask for a similar conference. It
4 might even be to your Honor's benefit to have that conference
5 in tandem so that you can hear from the government first, when
6 they tell you what they've done so far -- I think that's what
7 Mr. Scotten said -- and what we think is left to do, because
8 they haven't shared that with us.

9 So we have raised with them, for instance, to the
10 extent that they have now made clear in the indictment that
11 they think my client was working with the Russian oligarch,
12 Mr. Deripaska, which we vigorously contest, but to the extent
13 that is their theory of the case, if the NSA was up on wiretaps
14 of Mr. Deripaska during the time period charged in this
15 indictment when they claim my client was working with him,
16 that's Rule 16 material, and we expect to get that. The day of
17 the indictment, that it's unsealed, and it's the shot heard
18 around the world, was NSA or the CIA up on any intercepted
19 transmissions with Mr. Deripaska, and his associates. That
20 chatter is going to be important to our defense. We are not
21 getting answers from the government if they have collected it,
22 and my understanding is it's not going to be in this tranche of
23 discovery that we are receiving.

24 So these are some of the issues that we are facing. I
25 think that Mr. DuCharme and I, we have asked them, what

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1 intelligence community files have you gone through, is it
2 classified information, and we're not getting answers to any of
3 it.

4 I am mindful that this case is being brought not by
5 the terrorism section of the U.S. Attorney's Office but it's
6 being brought by the public corruption section. So the lens
7 through which the government is looking at this case, I
8 understand they believe that they can do this. This is their
9 narrow case, their case in chief. But there are many doors
10 that they have to open so that we can defend our clients. To
11 that end, I do want to say something about the issue with the
12 protective order.

13 The holdup that I have had with the government with
14 respect to the protective order really comes down to a single
15 sentence in the order. The order says that when they give me
16 discovery material, they want representation from me that
17 neither myself nor my client is going to be posting it on
18 Twitter or giving it to the media, and I'm fine with that.
19 Okay? I'm totally fine with that. I've signed many of these
20 protective orders agreeing to that. But what I said to the
21 government is, I want a representation from you that you're not
22 going to do it. Because if the U.S. Attorney's Office does
23 that, I have to be able to respond. And this doesn't normally
24 come up in the run-of-the-mill cases that I have had in this
25 district, but in this particular case, given the degree of the

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1 press interest in this and already public statements made by
2 the government in a press release issued on the day that my
3 client was arrested, they've created a media frenzy, and they
4 have already set the table for lots of people saying and
5 leaking to the press and lots of stories. And in particular,
6 the day that my client was arrested, we have the ADIC of the
7 FBI coming out with a statement, basically insinuating that my
8 client, who has been an American citizen for decades, is a
9 good, loyal United States citizen, the implication from the
10 public statement in the press release issued by the U.S.
11 Attorney's Office is that he's some type of traitor and aligned
12 with the Russians and the Kremlin, and that is simply not true,
13 and they know that that's not true. They haven't charged him
14 with espionage. He's not a Russian spy. And, you know, what
15 happened to him was, on January 21st, which was a Saturday, at
16 noon -- they did it at noon on a Saturday, okay? Usually the
17 arrests happen at 6:00 in the morning because of safety
18 concerns. That's what the bureau says. They'll come at 4, 5
19 in the morning. At noon on a Saturday, my client was at home
20 with his wife. At least 10 FBI agents show up at his house,
21 okay? This is a guy who has a lawyer, who's met with the
22 government, met with them four or five months ago. He's spoken
23 with Mr. Scotten and his colleagues here. And they show up,
24 they arrest him at noon on a Saturday. What that meant, by
25 arresting him at noon on a Saturday, is that he was never going

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1 to be able to appear in this district before a magistrate judge
2 because it was too late. They weren't going to be able to get
3 him here that day. And they darn well knew that that meant
4 Mr. Shestakov, who is a good man, was going to spend two days
5 at the MDC. Two days at the MDC. And that's what he spent, in
6 the SHU. Mr. Shestakov, who they've known exactly where he is,
7 who has been an interpreter for their office and this
8 courthouse, they arrested him at noon, and they knew darn well
9 it was going to cause him to be in jail, at the MDC. And I
10 don't have to educate your Honor about how bad things are at
11 the MDC. He also had medication that he needed for a serious
12 medical condition that the agents full well knew about, and the
13 MDC wouldn't let him have it on Sunday. He takes it on a daily
14 basis. That's the disrespect with which Mr. Shestakov has been
15 treated here when he has been cooperative with the government
16 during this investigation, through counsel.

17 I do want to make a couple of just brief points on
18 Mr. Shestakov's behalf, particularly because of the media
19 firestorm that was caused, and it started with the press
20 release that the government made. But the media storm, you
21 know, has people insinuating that he's some type of
22 intelligence agent or spy for the Russians. That's not true.
23 That's never been true. So I just want to say a few things
24 about Mr. Shestakov to set the record straight, because I'm not
25 going to go out in front of the courthouse; I'm not going to

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1 issue press releases. I don't do that. But I want to say this
2 about Mr. Shestakov. Yes, he was a Russian diplomat. He's not
3 a spy. He's not in the Foreign Intelligence Service. The
4 government doesn't allege it because they know it's not true.
5 He ended his service 1993, when he retired. He's been here in
6 the United States for decades. He went to work -- there's a
7 huge gap in that indictment. They talk about, oh, he worked,
8 you know, as a Russian diplomat. Then they say he was an
9 interpreter. What they're missing is about 20 years in
10 between. Mr. Shestakov was working with a company called Media
11 Most, which has been an enemy of Vladimir Putin and the Kremlin
12 for decades. The owner of that company, who Mr. Shestakov was
13 working for -- the government doesn't say anything about
14 that -- is Vladimir Gusinsky, who is a vowed enemy of Putin,
15 who Putin has jailed because of the work of Media Most.
16 Mr. Shestakov worked for almost 20 years for them.

17 The narrative that has been portrayed in this case as
18 to my client has been deeply unfair. And the reason we are
19 stuck on this protective order is that I just can't agree that
20 I'm not going to say anything to the media that doesn't need to
21 set the record straight if the government won't agree with me
22 that they're not going to be releasing things to the media.

23 And I do also want to put on the record that
24 Mr. Deripaska, this supposed oligarch that my client was
25 working for -- and we will show that this just was not true --

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1 but Mr. Deripaska has come out publicly through an agent and
2 said he didn't work with my client.

3 So this is very critical that we are given access to
4 core Rule 16 defense materials that only the government knows
5 about and won't tell us about, whether they have them, whether
6 they don't have them, and they have an obligation to search.

7 THE COURT: All right.

8 MS. GLAVIN: Thank you, Judge.

9 THE COURT: Mr. Scotten.

10 MR. SCOTTEN: Briefly, your Honor. Sort of an
11 unfortunate note to get misstated on. There were some
12 inaccurate statements in Ms. Glavin's presentation.

13 I guess I should say the idea that the government is
14 stonewalling her is absurd. We've been really trying to get
15 her to come forward. We've been asking Mr. DuCharme to get her
16 to reach out to us but she did not until two days ago, at which
17 point --

18 THE COURT: Just a second. Ms. Glavin, when did you
19 enter your appearance in the case?

20 MS. GLAVIN: Monday afternoon, 48 hours ago. No,
21 three days ago. 72 hours.

22 MR. SCOTTEN: And we were aware that Mr. Shestakov had
23 an attorney before this, but she wouldn't come forward so we
24 could discuss it with her. As soon as she -- I'd like to
25 finish.

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1 As soon as she appeared on the docket, we reached out.
2 It took some work to schedule time to appear -- to talk to her.
3 When she made time to speak with us, she told us she had not
4 yet been able to review the protective order, so we put it off
5 for another day.

6 We had a conversation yesterday with Mr. DuCharme,
7 where the objection just discussed was raised, but again, we
8 were informed she hadn't thoroughly reviewed the protective
9 order and the resolution at the end was that she and
10 Mr. DuCharme were going to talk and get back to us on any
11 requested changes. We haven't heard those yet. We're happy to
12 consider them. We'll get back promptly as soon as we hear
13 them.

14 Similarly, with respect to this issue of requests on
15 discovery, it is accurate that Ms. Glavin, the last few times
16 we spoke, briefly mentioned things she would want, but far from
17 saying we're not going to tell you or anything like that, we
18 said, please send us a letter so we can see exactly what you
19 want and we'll send you a considered written response that
20 tells you what we can tell you and what we've done, and we
21 haven't received that letter either. We look forward to
22 receiving it. We'll respond promptly as soon as we do receive
23 it.

24 So there is no legitimacy to this idea that she's made
25 requests that haven't been honored. We'd really like to get

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1 those requests, and we'll address them as soon as we can.

2 With respect to the press issue, I do think this is
3 somewhat premature because hopefully the parties can reach
4 consent on what the protective order will say. So all I'm
5 going to say for now is, there are safeguards in place to
6 prevent the government from doing anything that would prejudice
7 her client in terms of inappropriate release of nonpublic
8 information. I think most prominently is Local Rule 23.1,
9 which applies both to us and government agents, such as the
10 FBI, and I can tell the Court that I've informed the
11 investigating agents and their supervisor of Rule 23.1, its
12 prohibitions on disclosure of nonpublic information, and
13 they've agreed to abide by it. I understand the defense may
14 want more assurances, but hopefully we can work those out and
15 bring something to the Court on consent rather than
16 prelitigating what may turn out not to be a dispute.

17 I think that's enough from me on this for now, unless
18 the Court has questions.

19 MS. GLAVIN: I just want to be briefly heard, your
20 Honor, about when I entered the case, because I don't want the
21 Court to think that I've been somehow hiding in the background
22 here.

23 THE COURT: I also want to hear why Local Rule 23.1
24 doesn't address your concerns about the protective order.

25 MS. GLAVIN: Well, the reason I don't think it

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1 addresses my concern is that in my view, the statement by the
2 assistant director of the FBI that was issued in the press
3 release by the government on January 21st I think runs afoul of
4 Rule 23.1. And the Justice Department issued that press
5 release. I was surprised that it got through and wasn't edited
6 out in the office. So that's my concern about Rule 23.1. But
7 I'm with you on that. Rule 23.1 governs me as well. So why do
8 we need that in the protective order? I'm with the government.
9 It governs them and it governs me. And so I'm with them on
10 that.

11 I do want to make a point about this, to the extent
12 Mr. Hagan thinks that there was any type of game playing.

13 MR. SCOTTEN: Scotten.

14 MS. GLAVIN: Mr. Scotten. Thanks. -- that there was
15 some type of gamesmanship here. I entered the appearance once
16 I had agreed on engagement with my client, which was Monday,
17 and we filed a notice of appearance Monday.

18 Secondly, the reason it took me some time, like a day,
19 to get back to Mr. Scotten about the protective order is I had
20 a three-hour-plus oral argument in the Eastern District of New
21 York on Tuesday. Immediately following that -- which I had
22 been prepping for for some time, and then immediately following
23 that argument, I had to drive to upstate New York for the wake
24 of a very good friend, childhood friend of mine, and I only got
25 back into the city yesterday afternoon, at which point I had

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1 the discussion with Mr. Scotten. There's no gamesmanship going
2 on here.

3 With respect to the protective order, I made it very
4 clear to him that I have an issue with that sentence. They
5 should be bound by it, I said to him; he said come up with
6 language. But I want your Honor to understand that is what the
7 issue is in the protective order.

8 The second issue with respect to the requests that I
9 have made to the government, it's not just a matter of us
10 putting it in a letter. I'm actually taken aback that that's
11 the position of the government about what we want. They have
12 had a year and a half to know what is going to be relevant to
13 our defense. They should know it better than I do. The fact
14 that they need for me to put in a letter, have you intercepted
15 Mr. Deripaska, have you inquired of the intelligence community,
16 and they can't answer that question to me on the phone means
17 I'm going to have to have apparently a very lengthy letter to
18 them. And yes, it's going to take some time. I just got into
19 the case on Monday. I have other professional
20 responsibilities. Mr. Shestakov is an enormous priority, and I
21 want to get it right. And he deserves a fair trial. Just
22 because I'm not moving at the pace that the government would
23 like this to move, it's because I'm spending the time that is
24 necessary and that is my professional responsibility.

25 THE COURT: All right. Well, let's try to get the

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1 protective order done so that discovery can proceed, and I
2 trust that the two sides will work it out. If you can't, then
3 I will decide from among your competing versions.

4 Mr. Scotten, what do you expect to be your principal
5 sources of proof at trial?

6 MR. SCOTTEN: Sure, your Honor.

7 So not necessarily in order of priority, but some of
8 the evidence at trial, the primary evidence at trial, I think,
9 would include electronic communications involving the
10 defendants in which they plan and conduct the charged offenses.
11 That's going to include messages from the defendants' phones,
12 which were searched pursuant to search warrants; messages found
13 on the phone of a man described in the indictment as Agent 1,
14 which was searched by Customs and Border Patrol as he passed
15 through JFK; also messages involving the defendants and the law
16 firm mentioned in the indictment, which were provided by the
17 law firm pursuant to subpoena. There will be some materials in
18 those electronic devices that maybe don't constitute
19 messages -- for example, drafts of the contract discussed in
20 the indictment which was passed among the defendants and Agent
21 1 as they sort of revised it and passed the document, and,
22 eventually, as Mr. Shestakov forged the signature of the
23 corporate owner and then took a photograph of it and sent it to
24 Agent 1.

25 There are other materials provided by the law firm,

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1 things like billing records and so on, that helped show these
2 defendants were aware Mr. Deripaska was sanctioned at the time
3 they entered business with him. There are certain emails,
4 essentially bureau emails from McGonigal's time as a special
5 agent in charge, again, primarily relevant to showing knowledge
6 of Deripaska's status.

7 There will be Shestakov's statements to law
8 enforcement, probably most prominently a recorded interview in
9 November of 2021, which forms the basis of Count Five, charging
10 him with false statements during that interview. There will be
11 statements that both defendants made to third parties offered
12 through witnesses, and obviously there will be witness
13 testimony, which I'm not going to get into in as much detail,
14 but obviously we expect to call all manner of witnesses,
15 including many percipient witnesses to some of the events
16 described in the indictment.

17 There will be financial records, bank records,
18 background stuff to show the movement of money among the
19 parties.

20 And there will be surveillance photographs depicting,
21 among other things, the meetings between these defendants and
22 Agent 1 at various times significant to the charged conduct,
23 such as very shortly before Shestakov attempted to fabricate
24 the nature of his relationship with Agent 1, photographs with
25 him meeting with agent McGonigal shortly before that.

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1 That's not everything, but I think that's a fair
2 summary of the principal evidence.

3 THE COURT: All right. And does the government
4 anticipate filing any superseding indictments, adding
5 defendants, or adding further charges?

6 MR. SCOTTEN: Always possible, but no anticipation of
7 that on our part right now, your Honor.

8 THE COURT: Have counsel, pursuant to my order,
9 consulted with each other about a month for trial?

10 MR. SCOTTEN: So we consulted about scheduling, your
11 Honor. My understanding is requests from both defense counsel
12 was simply to review the discovery and come back to this Court
13 in 90 days. I suppose I can let them make that request in
14 greater detail, but we don't think that's an unreasonable
15 request, given the volume of discovery.

16 THE COURT: Defense counsel, are you on the same page?
17 You want 90 days to review discovery before --

18 MR. DuCHARME: Yes, your Honor. We simply don't know
19 what we're up against in terms of the volume of materials, the
20 complexity of the case, so the time will I think benefit us.
21 And also, with respect to the potential application we may make
22 to educate you on the defense theories, we think that may take
23 a little time and could implicate some further delay. So the
24 short answer is yes, your Honor, 90 days is agreeable to
25 Mr. McGonigal.

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1 THE COURT: All right.

2 MS. GLAVIN: The same with Mr. Shestakov as well, your
3 Honor.

4 THE COURT: Okay. Let's set a date for another
5 conference, and I'm going to make it for sooner than 90 days
6 just to see where you are.

7 Thursday, March 9th, at 11:30.

8 MR. SCOTTEN: That works for the government, your
9 Honor.

10 THE COURT: Ms. Glavin?

11 MS. GLAVIN: One moment, your Honor.

12 Yes, your Honor, that works for me. Thank you.

13 THE COURT: Does that work for you, Mr. DuCharme?

14 MR. DuCHARME: Yes, your Honor.

15 THE COURT: Mr. Scotten, I think you said that in your
16 view, no days have elapsed yet under the Speedy Trial Act; is
17 that right?

18 MR. SCOTTEN: Yes, your Honor, because they were
19 excluded first at the initial appearance and then, when this
20 conference had to be postponed, a letter was filed and your
21 Honor endorsed it, excluding time.

22 THE COURT: Right. All right. So does the government
23 now wish me to exclude time from today through March 9th?

24 MR. SCOTTEN: Yes, please, your Honor.

25 THE COURT: Yes.

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1 MR. SCOTTEN: Yes. The government believes it would
2 be in the interests of the parties to give the defense, as they
3 requested, time to review discovery and prepare potential
4 defenses. We therefore think it would be in the interest of
5 justice and outweigh the needs of the defendants and the public
6 in a speedy trial.

7 THE COURT: Any objection?

8 MS. GLAVIN: No, your Honor.

9 MR. DuCHARME: No, your Honor.

10 THE COURT: Hearing no objection, I hereby exclude
11 time between today and our next conference date of March 9,
12 2023, under the Speedy Trial Act pursuant to 18 U.S.C. Section
13 3161(h)(7)(A), in order to permit counsel to confer about the
14 protective order, review discovery, and for defense to be
15 prepared. I find the exclusion to be in the best interests of
16 justice and it outweighs the best interests of the public and
17 the defendants in a speedy trial.

18 I believe that is all we need to cover today. Does
19 anyone want to be heard on anything else?

20 MR. SCOTTEN: No, thank you, your Honor.

21 MR. DuCHARME: Not for Mr. McGonigal, your Honor.

22 MS. GLAVIN: Not for Mr. Shestakov. Thank you, your
23 Honor.

24 THE COURT: All right. So we are adjourned until
25 Thursday, March 9th. And I hope to see a protective order

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submitted promptly.

MR. SCOTTEN: Yes, your Honor.

THE COURT: Thank you.

THE DEPUTY CLERK: All rise.

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